

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CLARENCE ENGLISH STURGES,	§	
TDCJ-CID NO. 531214,	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO. H-06-3127
	§	
NATHANIEL QUARTERMAN,	§	
	§	
Respondent.	§	

OPINION ON REMAND

Petitioner Clarence English Sturges filed a notice of appeals from the dismissal of his petition for writ of habeas corpus. The United States Court of Appeals determined that petitioner's final day for filing a timely notice of appeal was February 15, 2007. The Court of Appeals noted that petitioner's *pro se* notice of appeal was not dated, but was stamped as filed on February 21, 2007. The Court of Appeals further noted that the envelope, in which the notice of appeal was mailed, contained a handwritten date of "2-15-07." (Docket Entry No.16). Therefore, the Court of Appeals could not determine if petitioner had timely filed the notice of appeal by depositing it in the prison mail system on or before February 15, 2007. The Court of Appeals remanded the case to this Court for a determination of when petitioner placed his notice of appeal in the prison mail system. (Docket Entry No.16).

This Court ordered petitioner to submit an affidavit stating when he put his notice of appeal in the prison mail system and any papers supporting his affidavit. The Court also ordered the mail room supervisor of the McConnell Unit of TDCJ-CID to submit a copy of the legal mail log covering any legal papers submitted to the jail mail room by Clarence English Sturges, TDCJ-CID No. 531214, during February, 2007. (Docket Entry No.18). Both parties responded as

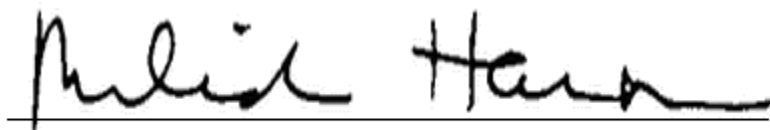
ordered,

In an unsworn statement, petitioner indicates that he placed the notice of appeal in the prison mail system on February 14, 2007. (Docket Entry No.19). By affidavit, David Diaz, the Mailroom Supervisor of the William G. McConnell Unit of TDCJ, attests to the veracity of the attached mailroom log for February, 2007. The log reflects that the mailroom received petitioner's notice of appeal on February 15, 2007. (Docket Entry No.20). Accordingly, the Court concludes that petitioner deposited the notice of appeal in the McConnell Unit mailroom no later than February 15, 2007.

In accordance with the Order of the Court of Appeals (Docket Entry No.16), the Clerk shall return this case to the Fifth Circuit Court of Appeals for further proceedings or dismissal, as appropriate. To the extent that petitioner does not wish to proceed with this appeal, he must seek leave to dismiss the appeal in the Fifth Circuit Court of Appeals.

The Clerk shall also provide copies of this Opinion to the parties.

Signed at Houston, Texas, this 24th day of May, 2007.

A handwritten signature in black ink, appearing to read "Melinda Harmon", written over a horizontal line.

Melinda Harmon  
United States District Judge